

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

ALFRED GREEN and DIANNE  
GREEN,

Plaintiffs,

v.

WERNER ENTERPRISES, INC.  
and FERNANDO BATISTA,

Defendants.

CIVIL ACTION FILE  
NO. \_\_\_\_

REMOVED FROM STATE COURT  
OF HOUSTON COUNTY  
CAFN: 2022-V-53969

**DEFENDANTS' NOTICE OF REMOVAL**

COME NOW, Defendants Fernando Batista and Werner Enterprises, Inc., and file this Notice of Removal to United States District Court, pursuant to 28 U.S.C. §§ 1441 and 1446, and show this Court as follows:

**STATEMENT OF THE CASE & PROCEDURAL HISTORY**

1. This action was commenced in the State Court of Houston County, State of Georgia as Civil Action File No. 2022-V-53969, with the parties named and aligned as stated in the caption of this document. Plaintiffs' initial pleading commencing this action was filed with the Clerk of the State Court of Houston

County on February 16, 2022. A true and correct copy of Plaintiffs' initial pleading is attached as "Exhibit A."

2. On April 4, 2022, Defendants received service of the initial pleading on which the proceeding is based. Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it has been filed within 30 days after receipt of the initial pleading on which the proceeding is based. A true and correct copy of the Affidavit of Service for Defendant Werner Enterprises, Inc. and Defendant Fernando Batista is attached as Exhibit "B."

3. The action alleges Plaintiff Alfred Green suffered damages to his neck, back, shoulder, and hand as a result of Defendants' negligence. The action further alleges Plaintiff Dianne Green suffered damages to her neck and right shoulder. Plaintiff alleges Defendants are liable under the following theories: ordinary negligence, negligence per se, imputed liability, and negligent hiring, training, and retention.

#### **DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332**

4. Subject-matter jurisdiction exists over this case under 28 U.S.C. § 1332.

5. Plaintiff Alfred Green is a citizen of Bibb County, Georgia and is subject to the jurisdiction of this Court. (Compl. ¶ 3).

6. Plaintiff Dianne Green is a citizen of Bibb County, Georgia and is subject to the jurisdiction of this Court. (Compl. ¶ 3).

7. Defendant Fernando Batista is a Florida citizen who resides at 826 Anza Avenue, Lehigh Acres, Lee County, Florida 33971 and is subject to the jurisdiction of this Court. (Compl. ¶ 4).

8. Defendant Werner Enterprises, Inc. is a Nebraska corporation, with its principal place of business in Nebraska. (See Compl. ¶ 8).

9. The amount in controversy exceeds \$75,000.00 because Plaintiff Alfred Green seeks damages for past, present, and future medical care in excess of \$88,000 and Plaintiff Dianne Green seeks damages in the amount of \$93,339.91. (Compl. ¶¶ 52-53).

10. This Court, therefore, has original jurisdiction under 28 U.S.C. § 1332.

11. The United States District Court for the Middle District of Georgia, Macon Division, is the appropriate venue under 28 U.S.C. § 1441(a) because it is the district court and division embracing the place where this action is pending.

12. Defendants attach hereto a copy of the Summons and Complaint in State Court of Houston County, State of Georgia, marked as Exhibit "A."

13. Defendants attach hereto copies of the Affidavit of Service for Defendant Werner Enterprises, Inc. and Defendant Fernando Batista, marked as Exhibit "B."

14. Defendants attach hereto a copy of Defendants' Notice of Removal which has been sent for filing in the State Court of Houston County, State of Georgia, marked as Exhibit "C".

WHEREFORE Defendants pray that this cause be removed to the United States District Court for the Middle District of Georgia, Macon Division, and that no further proceedings occur in the State Court of Houston County, Georgia.

Respectfully submitted this 4th day of May, 2022.

**HALL BOOTH SMITH, P.C.**

*/s/ Sean B. Cox*  
SCOTT H. MOULTON  
Georgia State Bar No. 974237  
SEAN B. COX  
Georgia State Bar No. 664108  
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**Defendants Request**

**Trial By Jury**

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing  
**Defendants' Notice of Removal** upon all parties to this matter by depositing a true  
copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of  
record as follows and/or filing said document with the CM/ECF system which will  
automatically send electronic notification to the following:

Ashley Pitts  
WLG Atlanta, LLC  
600 Peachtree Street NE  
Suite 4010  
Atlanta, GA 30308  
[Ashley.pitts@witheritelaw.com](mailto:Ashley.pitts@witheritelaw.com)

Mark G. Pitts  
Kenneth S. Nugent P.C.  
300 Mulberry Street  
Suite 106  
Macon, GA 31201  
[mpitts@attorneykennugent.com](mailto:mpitts@attorneykennugent.com)

Respectfully submitted this 4th day of May, 2022.

**HALL BOOTH SMITH, P.C.**

*/s/ Sean B. Cox*

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